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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,806	02/27/2006	Yoichiro Sako	286223US6PCT	6541
22850	7590	08/21/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			MISKA, VIT W	
			ART UNIT	PAPER NUMBER
			2833	
			NOTIFICATION DATE	DELIVERY MODE
			08/21/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/569,806	<b>Applicant(s)</b> SAKO ET AL	
	<b>Examiner</b> Vit W. Miska	<b>Art Unit</b> 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/7/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 5 and 7, indicated as allowable in the previous Office action, are rejected for the reasons set forth below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by the WO published application to Hepp et al (WO 99/21064). The Hepp et al reference discloses main operating means "Display" for performing an specified operation consistent with the operation of the apparatus (the display of moon phase), and control means "CPU" for controlling the operation of the main operating means in keeping with the age of the moon (change of display of moon phase), including controlling adjustment of imaging characteristics consistent with the age of the moon, i.e. each moon phase is an adjusted image characteristic of the displayed moon phase. The light emitting means and light volume adjustment in claim 7 corresponds to the increased illumination as a result of the successive phases of the moon displayed.

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2. Claims 1, 2 4, 5 and 7 are further rejected under 35 U.S.C. 102(b) as being anticipated by the new patent cited to Galison (5245590). The reference discloses an electronic apparatus including main operating means 10, moon age acquisition means 10 for acquiring an age of the moon (col. 1, lines 59-60), control means 10 for controlling the main operating means in keeping with the age of the moon, display means 14, display control means for controlling display, the including changing image characteristics, i.e. displaying changing moon phase characteristics (size and shape). The contrast adjustment in claims 1 and 4 and edge adjustment recited in claim 4 correspond to "changing contrasting portions" described at col. 1, line 40 and the "incrementally darkening" moon phases at col. 2, line 21. The light emitting means and light volume adjustment in claim 7 corresponds to the increased illumination as a result of the successive phases of the moon displayed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hepp et al (WO 99/21064) in view of the new patent cited to Galison (5245590).

4. Hepp et al disclose an electronic apparatus the operations of which are controlled electronically, said apparatus comprising main operating means CPU for performing a specified operation consistent with the usage and application of said electronic apparatus; main control means RAM for controlling said main operating means; display means including a main operation display area 3 for demonstrating the operating state of said main operating means and a moon image display area 8 for demonstrating a moon image consistent with the age of the moon; and display control means (Display Interface) for demonstrating the operation of said main operating means, output from said main control means, in said main operation display area, and for demonstrating the moon image consistent with the age of the moon in said moon image display area, further comprising a moon age calendar for storage of the age of the moon and timepiece means for timing the current date and time; said display control means acquiring the age of the moon consistent with the current date and time from said moon age calendar, see col. 7, lines 5-8 of the US equivalent patent 6449219, the display control means controlling image characteristics (phases of the moon), further comprising communication control means "Transceiver" for establishing connection to an external network; said display control means acquiring the age of the moon from said external network through said communication control means.

5. Hepp et al do not specifically describe controlling image contrast. However, Galison teaches the incremental adjustment of the image contrast in a moon phase

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display, at col. 1, line 40, as noted above. It would therefore be obvious for one or ordinary skill in the art to display the moon phases in this manner in Hepp et al as a conventional way of indicating moon phases and corresponding light and dark contrasting portions.

6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

7. Applicant's arguments have been given careful consideration, but have not been found persuasive in view of the new grounds of rejection. In addition, claim 4 as amended fails to define over Hepp et al, previously applied. The "adjustment of imaging characteristics" added to the claim is met in the reference, as the term encompasses a broad range of possibilities, the changeable display of moon phases in Hepp et al satisfying this limitation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vit W. Miska/  
Primary Examiner, Art Unit 2833

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